

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 86 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME TAX

Versus

P V ASHAR

Appearance:

MR MANISH R BHATT for Petitioner
Mr.N.B. Divetia for the Respondent.

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE KUNDAN SINGH

Date of decision: 06/05/98

ORAL JUDGEMENT

(Per R.K.Abichandani,J)

The Income-tax Appellate Tribunal has referred the following question for the opinion of this Court under section 256(1) of the Income-tax Act, 1961.

"Whether the Appellate Tribunal is right in law and on facts in directing the Income tax officer to allow deduction of 40% of the incentive bonus as expenses incurred for earning the incentive bonus which was disallowed by the Income-tax officer on the ground that incentive bonus was part of salary ?"

2. Similar question had come up for consideration before this Court in ITR No.54 of 1993 and other cognate matters. For the reasons given in our judgment dated 27.4.1998 in the said group of matters, we hold that the Tribunal was right in directing the Income-tax Officer to allow the incentive bonus as deduction, but only to the extent of reimbursement of expenses actually incurred to the maximum limit of 30% of the incentive bonus earned by the assessee and that it was right in including the net amount after such deduction to the salary income. The question is accordingly answered in the affirmative against the Revenue and in favour of the assessee. The Reference stands disposed of accordingly with no order as to costs.

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